

REMARKS

Applicant appreciates the indication that the claims are allowable over the cited art. Applicant is amending claims 15 and 16 to correct an obvious typographical error in their dependency.

Applicant also acknowledges that claims 1, 2, 17, and 18 were provisionally rejected on obviousness-type double patenting in view of claims 46-51 of co pending application 10/444,541. Applicant cannot agree with this rejection.

Claim 46 of 10/444,541 relates to a method of producing at least one bioleaching agent which requires (briefly) establishing an environment wherein microorganisms are used to oxidize a slurry containing metal sulphide minerals; varying one or more physical parameters relating to the slurry; mutating the microorganisms; and separating and recovering at least one bioleaching agent from the slurry. Claims 47-51 depend from claim 46 and require additional features. None of claims 46-51 mention or suggest that the "separating and recovering [of] at least one bioleaching agent from the slurry", includes forming "a supernatant that includes a metal in solution and microbial cells and separating the microbial cells from the supernatant", as required by claims 1 and 17 of the instant application. Moreover, with respect to claim 17 of the instant application, none of claims 46-51 of 10/444,541 mention or suggest that the bioleaching plant slurry contains three phases.

Because 10/444,541 does not provide any suggestion of the features required by the claims in the instant application, it appears that the rejection is based on speculation, which is not sufficient to establish a *prima facie* case of obviousness.

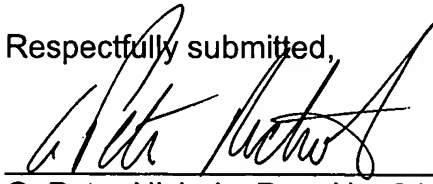
USSN 10/756,906
Response to May 1, 2006 Office Action
10908/8

Therefore, Applicant requests that the rejection be withdrawn and the application be allowed.

Applicant believes the present claims are allowable and respectfully request allowance of the application. The Examiner is invited to contact the undersigned attorney at (312) 321-4276 to resolve any outstanding issues.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. Peter Nichols', is written over a horizontal line.

G. Peter Nichols, Reg. No. 34,401